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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,206	03/17/2005	Martin Peter Bennett	330-022	6751
7590 Anthony R Barkume 20 Gateway Lane Manorville, NY 11949				
EXAMINER				
BAXTER, GWENDOLYN WRENN				
ART UNIT		PAPER NUMBER		
3632				
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09/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,206

Applicant(s)

BENNETT, MARTIN PETER

Examiner

Gwendolyn Baxter

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 8-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 8-13, 16, 18, 19, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 14, 15, 17, 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

This is the fifth Office action for application serial number 10/528,206, Loudspeaker Wall Bracket filed March 17, 2005. Claims 1, 2, 5, 8-19 and 21-24 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 8-13, 16, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,972,246 to Sauer. The present invention reads on Sauer as follows: Sauer teaches a bracket comprising a wall plate (12), upper and lower bracket base members (10, 11), a bracket mount (23), and clamping means (28, 34). The wall plate is arranged for attachment to a wall and has at least a pair of raised flanges (near 18, 13 – See figure 1) projecting laterally. The upper and lower bracket base members arranged to slide over the flanges. The upper and lower bracket base members defining sockets (19, 20) and the upper and lower bracket base members is constructed to embrace the wall plate. The bracket mount (23) is arranged for attachment to a body (26) and defines a bracket mount ball (23). The clamping means for causing the upper and lower bracket base members to grip the bracket mount ball and hold to the wall plate. The bracket mount may be locked to the bracket base

members in a variety of configurations. The flanges project laterally outwards of the plate. 5. The flanges are in parallel array. Each of the upper and lower bracket base members define a substantially hemispherical socket, whereby the bracket mount ball may be gripped there between. The upper and lower bracket base members have inter-fitting members whereby the bracket base members can be manually held together, with the ball in place, while the wall bracket is assembled. The bracket is arranged so as to permit the ball to be gripped and the body thereby held in any one of a variety of inclinations with respect to the wall bracket. The ball and the sockets are pierced in the longitudinal direction and the clamping means comprises a bolt (28) passing through the two sockets (19, 20) and the ball (23). The hole through the ball is enlarged, at least towards the surface of the ball whereby the body may be held in a variety of configurations with respect to the wall. The bolt has an enlarged head (33) to enable it to be finger tightened. The bracket mount incorporates holes or slots (24) for attachment of the body. The upper and lower bracket base members define grooves (16, 18) which slide upon the laterally projecting wall plate flanges.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer. Sauer teaches the limitations of the base claim, excluded the intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then, it meets the claim.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer in view of U.S. Patent No. 1,086,375 to LaFrance. Sauer teaches the limitations of the base claim, excluding the ball is a slot.

LaFrance teaches a ball (8) and socket (10, 12) configuration, wherein the ball and socket has a slot (9, 11, 13). It would have been obvious to one having ordinary skill in the art at the time invention was made to have modified the hole as taught by Sauer to have incorporated the slot as taught by LaFrance for the purpose of changing the orientation of the device.

Allowable Subject Matter

Claims 14, 15, 17 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 23 is allowed.

Response to Arguments

Applicant's arguments with respect to claim 1, 2, 5, 8-19, and 21-24 have been considered but are moot in view of the new grounds of rejection.

In response to applicant's argument that Sauer fails to teach a wall plate, the wall plate of Sauer has been designated to be a part, namely the portion including 14 and 13, of the door frame.

In response to applicant's argument that the wall plate arranged for attachment to a home wall, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Although it is not advantageous to mount the door frame to a home wall, it is capable of being mounted on a wall or vertical surface. Therefore, the Sauer reference meets the claim limitation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Tuesday-Thursday, first Wednesday off, 8:30am -3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.